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COMMISSION ON HUMAN RIGHTS
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Forty-eighth session
Agenda item 10 (a)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES: QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY

Ninth annual report and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, presented by Mr. Leandro Despouy, Special Rapporteur appointed pursuant to Economic and Social Council resolution 1985/37

Addendum

1. Having considered the ninth annual report on the question of human rights and states of emergency (E/CN.4/Sub.2/1996/19 and Corr.1), submitted by the Special Rapporteur, Mr. Leandro Despouy, the Sub-Commission, in its resolution 1996/30 of 29 August 1996, inter alia, thanked the Special Rapporteur for his ninth annual report which, after updating, would be submitted to the Commission on Human Rights for its consideration at its fifty-third session.

2. The present addendum, which updates the ninth annual report of the Special Rapporteur, has been prepared in pursuance of that resolution for submission, together with the ninth report, to the Commission at its fifty-third session.

3. In the preparation of this document, use was made by the Special Rapporteur of new information received from Governments, communicated by various international organizations or published in the press since 18 June 1996, when his ninth report was issued.

4. According to this additional information, in the following countries and territories measures have been taken which constitute the proclamation, introduction, extension, maintenance or termination of emergency regimes in various forms:

Colombia:* The state of internal disturbance decreed on 2 November 1995 was further extended on 29 January 1996 for a period of 90 days.

Source: Notification of the Government to the United Nations Secretary-General dated 21 March 1996.

Niger: The state of emergency proclaimed on 27 January 1996 was lifted in May 1996.

Source: Information received from a non-governmental organization.

Territories occupied by Israel:* Repeated imposition and lifting of curfews reported since January 1996.

Source: Information published in the press.

Other observations and comments

5. The Special Rapporteur followed with interest the work of the second extraordinary session of the African Commission on Human and Peoples' Rights, held in Kampala, Uganda, from 18 to 19 December 1995. In particular, he took note of the reports that, in view of the human rights situation in Africa, the Commission mooted the idea of putting into place an early warning mechanism to deal with emergencies and called upon the NGO community to assist in that area. (Source: African Human Rights Newsletter, vol. 6, No.1, January-March 1996, p. 3).

6. In a letter dated 26 August 1996 addressed to the Special Rapporteur by the Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations Office at Geneva, a reference was made to the latest report of the Special Rapporteur (E/CN.4/Sub.2/1996/19) and it was stated that "since 1991, a de facto or de jure state of emergency situation or curfew does not exist in Ethiopia and hence the mention of Ethiopia should be discontinued in subsequent reports".

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* An asterisk accompanying the name of a country indicates that the state of emergency there is still in force.

7. In this connection, the Special Rapporteur would like to indicate that by drawing up and updating annually a list of States which have proclaimed, extended or terminated a state of emergency, he has endeavoured, in accordance with his mandate and within the limits of the information available to him, to give the Sub-Commission and the Commission on Human Rights as complete a picture as possible of the world situation regarding states of emergency since 1 January 1985. That is why his annual composite list contains both a summary of information already included in his previous reports as well as new information received from various sources. (For more details, see E/CN.4/Sub.2/1996/19, paras. 1-6 and 32).

8. However, in preparing his tenth annual report for submission to the Sub-Commission at its forty-ninth session, the Special Rapporteur will draw a more distinct line between the countries and territories in which emergency measures were taken at various times in the period since 1 January 1985 and those in which the state of emergency is currently in force.

9. Lastly, the Special Rapporteur would like again to refer to the two expert meetings on non-derogable rights in states or situations of emergency which were organized by the Association of International Consultants on Human Rights (CID) in cooperation with the High Commissioner for Human Rights/Centre for Human Rights and held at Geneva in May 1994 and May 1995 (see E/CN.4/Sub.2/1994/23, para. 19; E/CN.4/Sub.2/1995/20, paras. 19-32 and annex I, and Corr.1). Both meetings were chaired by the Special Rapporteur. The purpose of the meetings was to assist him in carrying out a study requested by the Commission on Human Rights and the Sub-Commission of the various international norms that ensure the inalienability of certain rights, and to reach conclusions on the expansion of non-derogable rights.

10. The papers presented by the experts at the meetings included: Introduction by Mr. Ibrahima Fall, Assistant Secretary-General for Human Rights; "The case-law of the International Court of Justice on non-derogable rights" by Mr. Antônio Augusto Cançado Trindade; "The Code of Crimes against the Peace and Security of mankind and the inalienable or non derogable rights" by Mr. Christian Tomuschat; "States of emergency and states of exception: human rights abuses and impunity under colour of law" by Mr. Cherif Bassiouni; "International human rights standards concerning criminal law and procedure and derogation" by Mr. Daniel O'Donnell; "Note on article 15 of the European Convention on Human Rights" by Mr. Peter Duffy; "Derogation and the United Nations Human Rights Committee" by Mr. Alfred de Zayas; "Inalienable rights within the framework of the inter-American system of human rights" by Ms. Liliana Valiña; "The issue of the state of emergency in the context of the Organization for Security and Cooperation in Europe (OSCE)" by Mr. Victor-Yves Ghebali; "International humanitarian law and inalienable or non-derogable rights" by Ms. Denise Plattner; "The non-derogable rights of the child in the light of the United Nations Convention on the rights of the Child" by Ms. Marie-Françoise Lücker-Babel; "The African Charter on Human and Peoples' Rights and the inviolability of the fundamental rights" by Mr. Matar Diop; "The Cairo Declaration on Human Rights in Islam and non-derogable rights" by Mr. Osman El-Hajjé; "Non-derogable rights and the need to protect the environment" by Ms. Laurence Boisson de Chazournes; "United Nations protection of minorities in time of public emergency: the hardcore of minority rights" by Mr. John Packer; "The rights of peoples as

inalienable rights" by Mr. François Rigaux; and "Conclusions and recommendations" by Mr. Leandro Despouy.

11. These papers prepared for the meetings have now been published by CID in a bilingual English/French collection of studies (a Spanish version is under preparation). 1/ This was made possible with the financial support of the Governments of Greece, Norway, Sweden and Switzerland and the European Commission. The book is published as volume No. 36 of the Etablissements Emile Bruylant collection "Organisation internationale et relations internationales", directed by Mr. Victor-Yves Ghebali. Some of the authors have updated their papers up to July 1996.

1/ Association de consultants internationaux en droits de l'homme - CID - Association of International Consultants on Human Rights. Droits intangibles et états d'exception - Non-derogable rights and states of emergency, Et. Bruylant, Bruxelles, 1996, p. 644.

Annex

LIST OF SPECIALIZED PUBLICATIONS RECEIVED FROM AMNESTY INTERNATIONAL AND MINORITY RIGHTS GROUP

ANGOLA - The Lusaka Protocol: what prospect for human rights?
10 April 1996, AI INDEX: AFR 12/02/96

KUWAIT - Five years of impunity: human rights concerns since the withdrawal of Iraqi forces
February 1996, AI INDEX: MDE 17/01/96

NIGER: A major step backwards
16 October 1996, AI INDEX: AFR 43/02/96

REPUBLIC OF KOREA - Update on National Security Law arrests and ill-treatment: The need for human rights reform
March 1996, AI INDEX: ASA 25/09/96

SRI LANKA - The Human Rights Commission Bill
December 1995, AI INDEX: ASA 37/25/95

TURKEY - Young women paralysed after torture
February 1996, AI INDEX: EUR 44/15/96

TURKEY - Children at risk of torture, death in custody and "disappearance"
November 1996, AI INDEX: EUR 44/144/96

BURUNDI: Breaking the cycle of violence
An MRG International Report, 95/1.